

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

**ANDREW SIMPSON,**

**Plaintiff,**

**vs.**

**DENNIS R. RUTH, and ILLINOIS  
INDUSTRIAL COMMISSION,**

**Defendants.**

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**Case No. 06-cv-0236-MJR**

**MEMORANDUM and ORDER**

**REAGAN, District Judge:**

On May 5, 2006, this Court dismissed this matter with prejudice for lack of subject matter jurisdiction (*See* Doc. 8). Now before this Court is Simpson's motion for stay of that Order pending appeal (Doc. 10). Therein, Simpson asks this Court to stay its May 5, 2006 Order, pursuant to **FEDERAL RULE OF CIVIL PROCEDURE 8(a)** (Doc. 10, p. 1). Although Simpson cites Federal Rule of Civil Procedure 8(a), it is clear to this Court that the relief he requests must be pursuant to **FEDERAL RULE OF APPELLATE PROCEDURE 8(a)**. Appellate Rule 8(a) states that, "[a] party must ordinarily move first in the district court for ... a stay of judgment or order of a district court pending appeal ...." **F.R.A.P. RULE 8(a)(1)**.

Simpson has already filed his appeal with the Seventh Circuit. Nonetheless, "a notice of appeal does not deprive the district court of jurisdiction over a motion for stay of its judgment." *Rakovich v. Wade*, 834 F.2d 673, 674 (7<sup>th</sup> Cir. 1987). "Rule 62(d) of the Federal Rules of Civil Procedure reserves power in the district court to grant a stay of its judgment upon proper application." *Id.* Pursuant to **RULE 62(d)**, this Court "in its discretion," may grant the relief Simpson requests to the extent the Court "considers proper for the security of the rights of [Simpson]." **FED.**

**R. CIV. P. RULE 62.**

In Simpson's motion for stay, he asserts that "[u]nless this motion is granted, [he] will suffer immediate and irreparable injury, loss, and damage ...." (Doc. 10, p. 2). However, neither in his motion (Doc. 10), nor in his memorandum in support (Doc. 11), does Simpson provide *any* basis whatsoever for this Court to find that absent the granting of his motion to stay, Simpson will suffer any injury, much less injury that is "immediate and irreparable." The Court **FINDS** that Simpson has not shown good cause for an order staying this Court's Order of dismissal. Accordingly, pursuant to **FEDERAL RULE OF CIVIL PROCEDURE 62** and **FEDERAL RULE OF APPELLATE PROCEDURE 8(a)**, the Court **DENIES** Simpson's motion to stay (Doc. 10).

**IT IS SO ORDERED.**

**DATED this 13<sup>th</sup> day of June, 2006.**

s/ Michael J. Reagan  
**MICHAEL J. REAGAN**  
**United States District Judge**